

Remarks:

Claims 1-18 are pending in the application. Applicant thanks the Examiner for noting the allowability of claims 2-4, 6, 8-10, 12, 14-16 and 18 upon rewriting to overcome the rejections under 35 U.S.C. §112, second paragraph.

Applicant notes that M.P.E.P. Section 609(I)(A)(2) does not require resubmission in an Information Disclosure Statement (IDS) in a divisional patent application of the references considered in a parent application, unless an applicant wants the references printed on the face of the patent, and that such references will automatically be considered during prosecution of the divisional application. Applicant notes that the present application is a divisional of U.S. Serial No. 09/565,138, now U.S. Patent No. 6,723,428, and that many more references than have been cited on the Examiner's "Notice of References Cited" Form PTO-892 were considered in the parent application. If Applicant's understanding is not consistent with the Examiner's in this regard, Applicant would be willing to submit, upon request, an IDS in the current matter reflecting such previously-considered references.

Objection to the Abstract

The Abstract of the disclosure was objected to as containing the word "comprising", which has special legal significance.

Amendments to the Abstract above remove all appearances of the objectionable term. Applicant also noticed that the total word count of the Abstract had been greater than 150 words and has reduced the total word count.

Claim rejections under 36 U.S.C. §112, 2nd paragraph

Claims 1-18 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the present invention.

A number of claim amendments have been made above that address the particular grounds for indefiniteness rejections. More specifically:

Claims 1, 7 and 13 have been amended to more distinctly recite that separate "first" and "second" layers are present in the present invention, and that the second layer is a limitation of the footwear component but not an integral part of the first layer;

Claims 5, 11 and 17 were amended to strike the bracketed phrases - the phrases were included as a result of application editing errors and not intended to be limitations of the respective claims; and

Claims 2, 8 and 14 were amended to utilize proper Markush group claim language.

Applicant respectfully submits that the amendments above address the objection to the disclosure and rejections of claims 1-18, and, thus, that the claims are now in a condition for allowance. A notice to that effect is earnestly solicited.

Should there be any questions after reviewing this paper, the Examiner is invited to contact the undersigned at 617-854-4000.

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Respectfully submitted
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